

104TH CONGRESS
2D SESSION

S. 1715

To amend the Internal Revenue Code of 1986 to provide a credit for adoption expenses, to allow penalty-free IRA withdrawals for adoption expenses, and to allow tax-free treatment for employer provided adoption assistance.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 1996

Mr. SPECTER (for himself, Mr. SANTORUM, Mr. JEFFORDS, Mr. LUGAR, Mr. HARKIN, Mr. INOUE, Mr. LEAHY, Mr. CAMPBELL, Mr. COCHRAN, Mr. HATFIELD, Mr. STEVENS, and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for adoption expenses, to allow penalty-free IRA withdrawals for adoption expenses, and to allow tax-free treatment for employer provided adoption assistance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Adoption Promotion
5 Act of 1996”.

1 **SEC. 2. CREDIT FOR ADOPTION EXPENSES.**

2 (a) IN GENERAL.—Subpart A of part IV of sub-
 3 chapter A of chapter 1 of the Internal Revenue Code of
 4 1986 (relating to nonrefundable personal credits) is
 5 amended by inserting after section 22 the following new
 6 section:

7 **“SEC. 23. ADOPTION EXPENSES.**

8 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 9 dividual, there shall be allowed as a credit against the tax
 10 imposed by this chapter for the taxable year the amount
 11 of the qualified adoption expenses paid or incurred by the
 12 taxpayer with respect to the adoption of a child.

13 “(b) LIMITATIONS.—

14 “(1) DOLLAR LIMITATION.—The aggregate
 15 amount of qualified adoption expenses which may be
 16 taken into account under subsection (a) with respect
 17 to the adoption of a child shall not exceed \$5,000
 18 (\$7,500, in the case of a child with special needs).

19 “(2) INCOME LIMITATION.—The amount allow-
 20 able as a credit under subsection (a) for any taxable
 21 year shall be reduced (but not below zero) by an
 22 amount which bears the same ratio to the amount
 23 so allowable (determined without regard to this
 24 paragraph but with regard to paragraph (1)) as—

25 “(A) the amount (if any) by which the tax-
 26 payer’s adjusted gross income (determined

1 without regard to sections 911, 931, and 933)
2 exceeds \$65,000, bears to

3 “(B) \$30,000.

4 “(3) DENIAL OF DOUBLE BENEFIT.—

5 “(A) IN GENERAL.—No credit shall be al-
6 lowed under subsection (a) for any expense for
7 which a deduction or credit is allowable under
8 any other provision of this chapter.

9 “(B) GRANTS.—No credit shall be allowed
10 under subsection (a) for any expense to the ex-
11 tent that funds for such expense are received
12 under any Federal, State, or local program.

13 “(C) REIMBURSEMENT.—No credit shall
14 be allowed under subsection (a) for any expense
15 to the extent that such expense is reimbursed
16 and the reimbursement is excluded from gross
17 income under section 138.

18 “(c) CARRYFORWARDS OF UNUSED CREDIT.—If the
19 credit allowable under subsection (a) for any taxable year
20 exceeds the limitation imposed by section 26(a) for such
21 taxable year reduced by the sum of the credits allowable
22 under this subpart (other than this section), such excess
23 shall be carried to the succeeding taxable year and added
24 to the credit allowable under subsection (a) for such tax-
25 able year. No credit may be carried forward under this

1 subsection to any taxable year following the fifth taxable
 2 year after the taxable year in which the credit arose. For
 3 purposes of the preceding sentence, credits shall be treated
 4 as used on a first-in first-out basis.

5 “(d) DEFINITIONS.—For purposes of this section—

6 “(1) QUALIFIED ADOPTION EXPENSES.—The
 7 term ‘qualified adoption expenses’ means—

8 “(A) reasonable and necessary adoption
 9 fees, court costs, attorney fees, and other ex-
 10 penses—

11 “(i) which are directly related to, and
 12 the principal purpose of which is for, the
 13 legal and finalized adoption of an eligible
 14 child by the taxpayer, and

15 “(ii) which are not incurred in viola-
 16 tion of State or Federal law or in carrying
 17 out any surrogate parenting arrangement,
 18 and

19 “(B) in the case of the adoption of a child
 20 with special needs, any other expenses.

21 “(2) EXPENSES FOR ADOPTION OF SPOUSE’S
 22 CHILD NOT ELIGIBLE.—The term ‘qualified adoption
 23 expenses’ shall not include any expenses in connec-
 24 tion with the adoption by an individual of a child
 25 who is the child of such individual’s spouse.

1 “(3) ELIGIBLE CHILD.—The term ‘eligible
2 child’ means any individual who has not attained age
3 18 as of the time of the adoption.

4 “(4) CHILD WITH SPECIAL NEEDS.—The term
5 ‘child with special needs’ means any eligible child
6 if—

7 “(A) a State has determined that the child
8 cannot or should not be returned to the home
9 of his parents, and

10 “(B) such State has determined that there
11 exists with respect to the child a specific factor
12 or condition (such as his ethnic background,
13 age, or membership in a minority or sibling
14 group, or the presence of factors such as medi-
15 cal conditions or physical, mental, or emotional
16 handicaps) because of which it is reasonable to
17 conclude that such child cannot be placed with
18 adoptive parents without providing adoption as-
19 sistance.

20 “(e) MARRIED COUPLES MUST FILE JOINT RE-
21 TURNS.—Rules similar to the rules of paragraphs (2), (3),
22 and (4) of section 21(e) shall apply for purposes of this
23 section.”.

24 (b) CONFORMING AMENDMENTS.—The table of sec-
25 tions for subpart A of part IV of subchapter A of chapter

1 1 of the Internal Revenue Code of 1986 is amended by
 2 inserting after the item relating to section 22 the following
 3 new item:

“Sec. 23. Adoption expenses.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 December 31, 1995.

7 **SEC. 3. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**
 8 **USED WITHOUT PENALTY TO PAY ADOPTION**
 9 **EXPENSES.**

10 (a) IN GENERAL.—Paragraph (2) of section 72(t) of
 11 the Internal Revenue Code of 1986 (relating to exceptions
 12 to 10-percent additional tax on early distributions from
 13 qualified retirement plans) is amended by adding at the
 14 end the following new subparagraph:

15 “(D) DISTRIBUTIONS FROM CERTAIN
 16 PLANS FOR ADOPTION EXPENSES.—Distribu-
 17 tions to an individual from an individual retire-
 18 ment plan of so much of the qualified adoption
 19 expenses (as defined in section 23(d)) of the in-
 20 dividual as does not exceed \$2,000.”.

21 (b) CONFORMING AMENDMENT.—Subparagraph (B)
 22 of section 72(t)(2) of the Internal Revenue Code of 1986
 23 is amended by striking “or (C)” and inserting “, (C) or
 24 (D)”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to payments and distributions after
 3 December 31, 1995.

4 **SEC. 4. EXCLUSION OF AMOUNTS RECEIVED UNDER EM-**
 5 **LOYER’S ADOPTION ASSISTANCE PRO-**
 6 **GRAMS.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
 8 ter 1 of the Internal Revenue Code of 1986 (relating to
 9 items specifically excluded from gross income) is amended
 10 by redesignating section 137 as section 138 and by insert-
 11 ing after section 136 the following new section:

12 **“SEC. 137. ADOPTION ASSISTANCE PROGRAMS.**

13 “(a) IN GENERAL.—Gross income of an employee
 14 does not include amounts paid or expenses incurred by the
 15 employer for qualified adoption expenses in connection
 16 with the adoption of a child by an employee if such
 17 amounts are furnished pursuant to an adoption assistance
 18 program.

19 “(b) LIMITATIONS.—

20 “(1) DOLLAR LIMITATION.—The aggregate
 21 amount excludable from gross income under sub-
 22 section (a) for all taxable years with respect to the
 23 adoption of any single child by the taxpayer shall
 24 not exceed \$5,000 (\$7,500, in the case of a child
 25 with special needs (as defined in section 23(d)(4))).

1 “(2) INCOME LIMITATION.—The amount ex-
 2 cludable from gross income under subsection (a) for
 3 any taxable year shall be reduced (but not below
 4 zero) by an amount which bears the same ratio to
 5 the amount so excludable (determined without re-
 6 gard to this paragraph but with regard to paragraph
 7 (1)) as—

8 “(A) the amount (if any) by which the tax-
 9 payer’s adjusted gross income (determined
 10 without regard to this section and sections 911,
 11 931, and 933) exceeds \$75,000, bears to

12 “(B) \$40,000.

13 “(c) ADOPTION ASSISTANCE PROGRAM.—For pur-
 14 poses of this section, an adoption assistance program is
 15 a plan of an employer—

16 “(1) under which the employer provides employ-
 17 ees with adoption assistance, and

18 “(2) which meets requirements similar to the
 19 requirements of paragraphs (2), (3), and (5) of sec-
 20 tion 127(b).

21 An adoption reimbursement program operated under sec-
 22 tion 1052 of title 10, United States Code (relating to
 23 armed forces) or section 514 of title 14, United States
 24 Code (relating to members of the Coast Guard) shall be

1 treated as an adoption assistance program for purposes
2 of this section.

3 “(d) QUALIFIED ADOPTION EXPENSES.—For pur-
4 poses of this section, the term ‘qualified adoption ex-
5 penses’ has the meaning given such term by section
6 23(d).”.

7 (b) CONFORMING AMENDMENT.—The table of sec-
8 tions for part III of subchapter B of chapter 1 of the In-
9 ternal Revenue Code of 1986 is amended by striking the
10 item relating to section 137 and inserting the following:

“Sec. 137. Adoption assistance programs.
“Sec. 138. Cross reference to other Acts.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 1995.

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